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ATTORNEY DOCKET NO. RIKE 02908 PTUS

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**REMARKS**

The independent claims are hereby amended to recite that the core is secured directly to the sleeve without intervening structure (the natural result of the coextrusion process and as illustrated in Figure 3) and to recite continuity in mechanical properties. All claims stand rejected as obvious under 35 U.S.C. § 103 over *Hubbell* in view of *Kubicky* and *Hansen*.

Examiner contends that the claimed sleeve corresponds to the "shell of epoxy resin 7" of *Hubbell* and that the claimed core corresponds to the structural tubular element 4. Applicant's claimed sleeve must form the exterior of the post and the claimed core must be secured directly to the sleeve. These limitations are not met or suggested by *Hubbell*, as shown below, or any of the other prior art of record.

The outermost layer of *Hubbell* is "a friction coating" 8 that Examiner conveniently ignores. Inward of the friction coating 8 is a layer of composite material 6, described as follows:

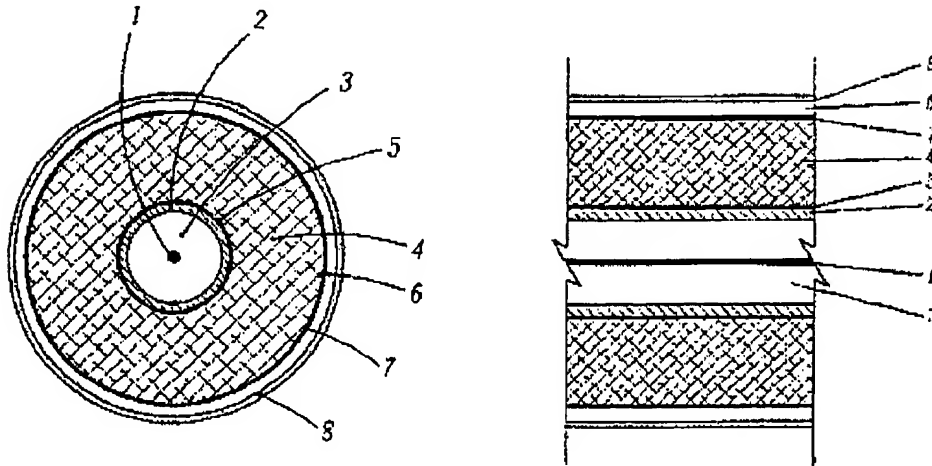
A next component of the inventive foundation pile is a composite material which is applied as an outer layer around the structural tubular element. The layer of composite material is identified with reference numeral 6. *The composite material layer 6 can be composed of fiberglass or carbon fibers and/or similar materials. It can be formed as a single shell or can be composed of a plurality of thin layers. It can also include metal components intended to oxidize at a placement of the pile in a medium. The composite material can be formed of individual strips of different material contents.* The structural tubular element can be connected with the layer of composite material by an intermediate connecting layer. The intermediate connecting layer which is identified with reference numeral 7 can be composed of

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resin, for example epoxy resin and the like.



Thus, the epoxy resin (glue) 7 that Examiner contends corresponds to Applicant's claimed exterior sleeve is *two layers away from the exterior surface of Hubbell's structure*.

If Examiner wishes to contend that the composite material layer 6 corresponds to Applicant's exterior sleeve, there are several problems with that:

- 1) It is still one layer removed from the exterior of Hubbell's structure;
- 2) The "core" 4 is not secured directly to the "sleeve" 6, there is an intervening layer; and
- 3) The composite layer 6 is taught to be formed of a discontinuous material, namely, *"individual strips of different material contents."*<sup>1</sup>

<sup>1</sup> This teaching of a discontinuous structure is wholly apart from *Hubbell's* disclosure of portals formed from the exterior of the post to the interior for inspection of the tensioning tendon, a discontinuity discussed *ad nauseum* in previous responses. Both discontinuities would create a dramatic change or changes in the mechanical properties of the post along its length (i.e. its stiffness or rigidity, as well as creating a stress-riser at each discontinuity).-----

Thus, viewed as a whole, Hubbell fails to disclose, teach or suggest the following claim limitations:

- 1) a polymeric or thermoplastic sleeve that defines the exterior of the post;
- 2) a core formed at least partially of recycled rubber that is secured directly to the interior surface of the sleeve; and
- 3) that is continuous and has generally uniform mechanical properties from end to end ("except at its ends, where attachment means may be provided for sign 15 or a socket used to secure the post in the ground." Page 7, lines 15-17 of the Specification).

Nor do the other cited references, taken alone or in combination, meet the claim limitations. *Kubicky*, although disclosing the use of recycled rubber, is a structure that is both jointed along its length and has numerous metallic components (see Figure 1, items 18, 20, and 26) disposed within it that render it discontinuous. Moreover, the exterior sleeve of *Kubicky* is a multi-part metallic structure that is anything but continuous. *Hansen* is formed of spirally wound strips and therefore is not continuous, either.

Only by applying impermissible hindsight, picking and choosing very selectively from isolated disclosures in the prior art can the cited references be applied to reject Applicant's claimed invention. The present obviousness rejection simply is not proper and cannot stand.

Applicant has now made an earnest attempt to place this application in condition for allowance, or in better condition for appeal. Therefore, Applicant respectfully

requests, for the reasons set forth herein and for other reasons clearly apparent, allowance of all pending claims so that the application may be passed to issue.

If the Examiner has any questions or desires clarification of any sort, or deems that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Applicant believes no fee is due for the filing of this amendment and response. If this is incorrect, the Commissioner is hereby authorized to charge any fee or credit any overpayment to Deposit Account No. 50-2180.

Respectfully submitted,

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DRAFT

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